

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #7	CCRB Case #: 201508658	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/05/2015 8:15 PM	Location of Incident: Fountain Avenue between Dumont Avenue and Blake Avenue; 75th Precinct Stationhouse	Precinct: 75	18 Mo. SOL 4/5/2017	EO SOL 4/5/2017	
Date/Time CV Reported Tue, 10/13/2015 12:34 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/13/2015 12:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SSA Robert Martinez	01369	922716	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Schumacher	04618	949640	075 PCT
2. POM Michael Ardolino	03101	951507	075 PCT
3. POM Tony Cuoco	17359	950261	075 PCT
4. POM David Quattrocchi	15010	952133	075 PCT
5. POM Noel Damico	12566	951650	075 PCT
6. POF Bridgette Thompsonwebley	20315	943875	075 PCT
7. POF Alicia Barrett	12594	926546	075 PCT
8. SGT Jose Deschamps	02706	931631	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA Robert Martinez	Force: SSA Robert Martinez used physical force against § 87(2)(b) on Fountain Avenue in Brooklyn.	
B.SSA Robert Martinez	Discourtesy: SSA Robert Martinez spoke discourteously to § 87(2)(b) at the 75th Precinct Stationhouse.	
C.SSA Robert Martinez	Discourtesy: SSA Robert Martinez acted discourteously toward § 87(2)(b) at the 75th Precinct Stationhouse.	
D.SSA Robert Martinez	Abuse: SSA Robert Martinez damaged § 87(2)(b)'s property at the 75th Precinct Stationhouse.	
E.SSA Robert Martinez	Force: SSA Robert Martinez used a chokehold against § 87(2)(b) at the 75th Precinct Stationhouse.	
F.SSA Robert Martinez	Force: SSA Robert Martinez used physical force against § 87(2)(b) at the 75th Precinct Stationhouse.	

Officer(s)	Allegation	Investigator Recommendation
G.SSA Robert Martinez	Abuse: SSA Robert Martinez threatened to arrest § 87(2)(b) [REDACTED] at the 75th Precinct Stationhouse.	[REDACTED]

Case Summary

On October 13, 2015, § 87(2)(b) filed the following CCRB complaint via the intake line on behalf of herself and her friend, § 87(2)(b) (Board Review 09). On October 5, 2015, at approximately 8:15 p.m., § 87(2)(b) s § 87(2)(b) -old son, § 87(2)(b) was arrested on Fountain Avenue near Blake Avenue in Brooklyn (Board Review 01). § 87(2)(b) was informed of his arrest, and she, her daughter, § 87(2)(b) and § 87(2)(b) responded to the location. Once on Fountain Avenue, § 87(2)(b) attempted to approach § 87(2)(b) but was stopped from doing so by SSA Robert Martinez of the 75th Precinct, who allegedly pushed her away (**Allegation A**).

§ 87(2)(b) was transported to the 75th Precinct Stationhouse, and § 87(2)(b) and § 87(2)(b) went to the stationhouse shortly thereafter. § 87(2)(b) was using his phone at the stationhouse. SSA Martinez allegedly told § 87(2)(b) “Get the fuck off of the phone,” “Don’t fucking take pictures or record,” and, “Get the fuck out of my precinct” (**Allegation B**). SSA Martinez then allegedly smacked the phone out of § 87(2)(b) s hand, causing the phone to fall to the ground and break (**Allegations C and D**). It was alleged that SSA Martinez grabbed § 87(2)(b) s shirt collar and part of his neck, and that he then pushed § 87(2)(b) toward the exit (**Allegations E and F**). SSA Martinez then allegedly told § 87(2)(b) that he was going to arrest him (**Allegation G**). § 87(2)(b) left the stationhouse and § 87(2)(b) was released to § 87(2)(b) Surveillance footage was obtained from the James P. Sinnott School, located on Fountain Ave between Blake Ave and Dumont Ave. The footage did not capture any portion of the incident.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of October 30, 2015, neither § 87(2)(b) nor § 87(2)(b) had filed a Notice of Claim with regard to this incident (Board Review 02).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- § 87(2)(b) has had two other CCRB complaints, both of which were closed as complainant uncooperative (Board Review 05).
- This is the first CCRB complaint involving § 87(2)(b) (Board Review 06).
- SSA Martinez has been a member of the NYPD for seventeen years. He has one other open CCRB complaint, case 201510169, which includes an allegation of a discourtesy.
- SSA Martinez has had twenty-nine previous CCRB cases involving seventy-eight allegations, six of which were substantiated. § 87(4-b) § 87(2)(g)
- Among his substantiated allegations were two allegations of force, a threat of force, and a discourtesy. For the substantiated discourtesy allegation, the CCRB recommended charges, and SSA Martinez received command discipline. The CCRB recommended charges for both of the substantiated force allegations. The

NYPD declined to discipline him for one of the substantiated force allegations, and the NYPD did not yet reach a disposition for the other. For the substantiated threat of force allegation, the CCRB recommended charges, but the NYPD declined to discipline SSA Martinez.

- Among SSA Martinez's other past allegations were sixteen allegations of force, thirteen allegations of discourtesies, one allegation of threat of force, and one of property damage. Of the allegations of force, six were exonerated, four were unsubstantiated, two were unfounded, and the remaining four were closed as victim or complainant uncooperative. Of the allegations of discourtesy, eight were unsubstantiated, two were unfounded, one was exonerated, and the remaining were closed as complainant uncooperative or unavailable. Allegations of force, discourtesies, and property damage have been made against SSA Martinez in this case.

Potential Issues

§ 87(2)(b) made multiple allegations on behalf of § 87(2)(b) but did not witness any of the alleged misconduct involving him. § 87(2)(b) and her attorney, § 87(2)(b), requested that all contact attempts to § 87(2)(b) and § 87(2)(b) be made through § 87(2)(b). § 87(2)(b) requested that those contact attempts be made via email.

Between October 27, 2015, and December 15, 2015, six emails were sent to § 87(2)(b) and seven were sent to § 87(2)(b) to schedule calls and interviews with § 87(2)(b) and § 87(2)(b) (Board Review 07). Both § 87(2)(b) and § 87(2)(b) responded to nearly all of the emails, repeatedly confirming that they wanted to arrange the interviews but repeatedly postponed scheduling them. Though a call with § 87(2)(b) was eventually arranged, both § 87(2)(b) and § 87(2)(b) failed to arrange interviews with any of the aforementioned victims and witnesses. Letters were sent to § 87(2)(b) on November 24, 2015, and December 11, 2015, and a letter was sent to § 87(2)(b) on December 11, 2015, as well. None of the letters were returned to the CCRB.

On November 19, 2015, during a third call to § 87(2)(b) stated that contact attempts to § 87(2)(b) and § 87(2)(b) should be made through § 87(2)(b). Between October 16, 2015, and December 4, 2015, ten calls were made to § 87(2)(b). On the tenth call, § 87(2)(b) provided a phone statement, but § 87(2)(b) said she would contact the investigator on a later date to schedule his interview and arrange contact with § 87(2)(b) (Board Review 11). She stated that the investigator could contact § 87(2)(b) directly. A follow-up call was made to § 87(2)(b) and § 87(2)(b) on December 10, 2015, but § 87(2)(b) still failed to arrange an interview or contact with § 87(2)(b) and § 87(2)(b). § 87(2)(b) therefore did not provide a sworn statement to the CCRB, and § 87(2)(b) provided neither a phone statement nor an interview to the CCRB.

Findings and Recommendations

Allegations Not Pleaded

- Force; Abuse of Authority; Discourtesy; Offensive Language - In an unsworn phone statement provided on December 4, 2015, § 87(2)(b) alleged that an officer drew his gun while chasing § 87(2)(b) on Fountain Avenue, and that an officer then tackled him to the ground (Board Review 11). Once on the ground, an officer put his knee on § 87(2)(b) head. § 87(2)(b) further alleged that while in the RMP, an officer told him, "Shut the fuck up," and that while in the RMP and again at the stationhouse, an officer called him a "faggot" and a "dirtbag." At some point, § 87(2)(b) asked an officer for his badge number, which the officer refused to provide. All interviewed officers denied the above allegations. Although § 87(2)(b) alleged some of this misconduct on § 87(2)(b) behalf, neither she nor § 87(2)(b) witnessed or was present when the aforementioned misconduct allegedly occurred. No other civilians or officers alleged the aforementioned misconduct in phone or sworn statements. Moreover, § 87(2)(b) did not provide a sworn statement to the CCRB. § 87(2)(g)

- **Chokehold** – In an unsworn phone statement, § 87(2)(b) alleged that while on Fountain Avenue, SSA Martinez grabbed his neck and lifted him up by his neck (Board Review 12). § 87(2)(b) did not allege this in his sworn statement and § 87(2)(b) did not witness the alleged force. § 87(2)(g)
- **Discourtesy** – § 87(2)(b) alleged that while on Fountain Avenue, SSA Martinez told § 87(2)(b) “Come to the fucking precinct.” § 87(2)(b) did not allege this in her sworn or unsworn statement. § 87(2)(g)
- **Refusal to provide name/shield**– In his unsworn phone statement, § 87(2)(b) alleged that he asked SSA Martinez for his name and badge number on Fountain Avenue and at the 75th Precinct Stationhouse, and that SSA Martinez did not provide his information at any point. Both § 87(2)(b) and § 87(2)(b) confirmed in their sworn statements that SSA Martinez provided his information to them. § 87(2)(g)
- **Restricted breathing** – § 87(2)(b) alleged that SSA Martinez grabbed his shirt collar and part of his neck for ten seconds or less while at the 75th Precinct Stationhouse (see Allegation E). He stated, however, that his breathing was only slightly restricted, that he did not pay much attention to it, and that it “didn’t really affect him.” § 87(2)(g)
- **Discourtesy** – § 87(2)(b) alleged that SSA Martinez stated to another officer, “Why the fuck is she over here again? Give her her fucking ID [sic].” PAA Jennings alleged that SSA Martinez stated to himself, “This fucking guy.” Given that the alleged statements were made to another officer or to SSA Martinez’s self, rather than to any civilian, the corresponding discourtesies allegations have therefore not been pleaded.
- **Discourtesy** – SPA Holliday alleged that an officer stated to § 87(2)(b) “Take your fucking ID [sic].” § 87(2)(b) did not allege this in her phone or sworn statement, and no other civilians or officers alleged this statement. § 87(2)(g)

Allegation A: Force – SSA Robert Martinez used physical force against § 87(2)(b) on Fountain Avenue in Brooklyn.

§ 87(2)(b) provided an unsworn phone statement to the CCRB on October 13, 2015, and a sworn statement on October 22, 2015 (Board Review 09; 10). § 87(2)(g) § 87(2)(b) stated that while on Fountain Avenue, she walked toward the RMP where § 87(2)(b) was seated in handcuffs, and asked SSA Martinez if she could speak with § 87(2)(b). SSA Martinez allegedly told her she could not do so, and with both hands, pushed § 87(2)(b)’s upper chest, causing her to stumble.

§ 87(2)(b) provided an unsworn phone statement on December 23, 2015, and a sworn statement to the CCRB on January 4, 2016 (Board Review 12; 13). He stated that while on Fountain Avenue, § 87(2)(b) and SSA Martinez were yelling at each other. § 87(2)(b) did not see SSA Martinez make any physical contact with § 87(2)(b). § 87(2)(b) was unable to see or hear § 87(2)(b)’s interactions with officers from the RMP. As addressed above in the Potential Issues section, § 87(2)(b) did not provide a statement to the CCRB.

SSA Martinez described § 87(2)(b)’s demeanor while on Fountain Avenue as “fine and calm,” and denied her attempting to approach § 87(2)(b) or interfere with his arrest (Board Review 14). He denied making physical contact with her. PO David Quattrocchi, PO Noel Damico, PO Tony Cuoco, PO Michael Ardolino, and PO William Schumacher, all from the 75th Precinct, were identified to have been present on Fountain Avenue. All five officers denied seeing SSA Martinez push § 87(2)(b) (Board Review 15; 17; 18; 19; 20).

§ 87(2)(g)

Allegation B: Discourtesy – SSA Robert Martinez spoke discourteously to § 87(2)(b) at the 75th Precinct Stationhouse.

§ 87(2)(b) stated that while at the 75th Precinct Stationhouse, he attempted to call his sister. SSA Martinez thought that § 87(2)(b) was using his phone to take a photo or record, and allegedly stated to § 87(2)(b) something to the effect of, “Get the fuck off of the phone. Don’t fucking take pictures or record.” § 87(2)(b) denied taking photos or recording, and he attempted to show SSA Martinez that he had not been doing so. § 87(2)(b) hung up the call, but when SSA Martinez left the area, § 87(2)(b) attempted to call his sister again. SSA Martinez returned and again stated, “Get the fuck off of the phone!” § 87(2)(b) stated that after being told by SSA Martinez to put his phone away, § 87(2)(b) again took out his phone. SSA Martinez then allegedly told § 87(2)(b) “I told you to get the fuck off of your phone. Get the fuck out of my precinct.” § 87(2)(b) again asked why he could not be on his phone.

Police Administrative Aid (PAA) Sherry Fuller, PAA Denise Jennings, and Supervising PAA (SPA) Yolanda Holliday provided sworn statements to the CCRB (Board Review 23; 25; 26). PAA Fuller heard SSA Martinez tell § 87(2)(b) to stop taking pictures or record, and then heard SSA Martinez and § 87(2)(b) arguing. She could not recall if she heard SSA Martinez make any discourteous statements. PAA Jennings heard SSA Martinez state to himself, “This fucking guy. I told him not to take pictures.” She saw § 87(2)(b) using his phone, but could not tell if he was using the camera or making a call. She also could not recall if she heard the alleged statements, but believed that § 87(2)(b) and SSA Martinez were using profanity during their argument. SPA Holliday stated that she observed § 87(2)(b) holding his phone, but it did not appear to her that he was using the camera. SPA Holliday stated, however, that civilians often take photos of flyers posted in the stationhouse, and that they are permitted to do so. She heard SSA Martinez state to § 87(2)(b) “Stop fucking taking pictures in my stationhouse,” and later state, “What the fuck did I tell him... Get the fuck out!”

SSA Martinez denied making the alleged statements and denied using any profanity towards § 87(2)(b) but stated that he observed § 87(2)(b) holding his phone out with both arms fully extended in front of him at eye level, panning the phone back and forth with the camera facing away from him. SSA Martinez told § 87(2)(b) that he could not film or take photos in the stationhouse, as there were victims of crimes, juveniles, confidential informants, and classified paperwork in the stationhouse, all of which needed to remain confidential. SSA Martinez explained that civilians are permitted to make phone calls in the stationhouse, but § 87(2)(b) had not been making a call and did not claim to have been doing so. § 87(2)(b) denied taking photos or recording but compliantly put his phone away. A few minutes later, he was seen holding his phone in the same position as before. SSA Martinez told § 87(2)(b) that he could not keep telling him to put his phone away, and that he needed to leave the stationhouse.

Sgt Jose Deschamps, the desk sergeant, PO Bridgette Thompsonwebley, who was assigned to the administrative office, and PO Alicia Barrett, the telephone switchboard operator, stated that they observed § 87(2)(b) holding his phone up with his arms extended or with the camera pointing to the window, and that it appeared he was filming or recording (Board Review 24; 21; 16). They heard SSA Martinez ask § 87(2)(b) multiple times to stop taking pictures/recording. PO Thompsonwebley stated that § 87(2)(b) refused, and both she and PO Barrett stated that § 87(2)(b) was then asked to leave the stationhouse. Sgt Deschamps, PO Thompsonwebley, and PO Barrett did not hear SSA Martinez make the alleged statements. Sgt Deschamps stated, however, that he could not clearly hear SSA Martinez and § 87(2)(b)'s interaction, and PO Barrett stated that she was not listening to most of their conversation.

§ 87(2)(g)



§ 87(2)(g)

Allegation C: Discourtesy – SSA Robert Martinez acted discourteously toward § 87(2)(b) at the 75th Precinct Stationhouse.

Allegation D: Abuse of Authority – SSA Robert Martinez damaged § 87(2)(b) s property at the 75th Precinct Stationhouse.

§ 87(2)(b) alleged that after SSA Martinez told him to “get the fuck off of the phone,” SSA Martinez smacked the phone out of his hand and onto the ground, causing the phone to screen to crack and the battery to fall out. § 87(2)(b) did not provide photos of the damaged phone to the CCRB, but stated that he had to purchase a new phone.

§ 87(2)(b) stated that SSA Martinez grabbed the phone from § 87(2)(b) s hand and threw it onto the ground, causing the battery and back of the phone to fall off. She did not believe that the phone was broken.

PAA Jennings stated that after hearing SSA Martinez and § 87(2)(b) arguing in the lobby, she heard a loud crack, which sounded as though something had been thrown against the wall. PAA Jennings initially stated that she heard someone yell something to the effect of, “You broke my phone!” but she then stated she was unsure if she heard that statement. She was in another room at the time and did not see what had happened. PAA Fuller did not witness this portion of the incident, but stated that SPA Holliday later told her that an officer had thrown a civilian’s phone or knocked it out of his hand. She also heard someone state that the phone had broken. SPA Holliday stated that multiple officers responded to the argument between SSA Martinez and § 87(2)(b) regarding the use of his phone, but that the officers and § 87(2)(b) then moved toward the entrance door in the lobby, which was out of her sight. SPA Holliday heard a cracking noise, and then heard § 87(2)(b) state, “You broke my phone!”

SSA Martinez denied smacking or throwing § 87(2)(b) s phone, and denied causing damage to the phone in any way. When questioned about the phone, SSA Martinez made no mention of anything happening with the physical phone. Although other officers responded to the lobby, SSA Martinez claimed that they did not get involved in any way, and stayed behind him. He therefore did not know which officers responded.

PO Thompsonwebley stated that after SSA Martinez had told § 87(2)(b) to stop using his camera and to leave the stationhouse, a female, identified as § 87(2)(b), angrily and aggressively advanced toward SSA Martinez as if she wanted to hit him. SSA Martinez and § 87(2)(b) were next to or facing each other when § 87(2)(b) advanced toward SSA Martinez. PO Thompsonwebley claimed that she and PO Barrett ran in between § 87(2)(b) and SSA Martinez, acting as a barrier. PO Thompsonwebley saw § 87(2)(b) s phone hit the ground, causing the battery to fall out. She did not know what had caused the phone to fall, and did not notice any damage to the phone when she picked it up and reattached the battery. PO Barrett denied interacting with § 87(2)(b) or § 87(2)(b) in any way, and denied witnessing any incident in which § 87(2)(b) s phone fell to the ground. Sgt Deschamps also denied witnessing this portion of the incident, but stated that he was later told by SPA Holliday that § 87(2)(b) s phone had fallen. He could not recall if SPA Holliday provided any further information to him. All other interviewed officers denied witnessing the altercation.

It is undisputed that SSA Martinez repeatedly told § 87(2)(b) to stop using his phone, and that the phone subsequently fell to the ground. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Force – SSA Robert Martinez used a chokehold against § 87(2)(b) at the 75th Precinct Stationhouse.

Allegation F: Force – SSA Robert Martinez used physical force against § 87(2)(b) at the 75th Precinct Stationhouse.

§ 87(2)(b) alleged that after his phone fell to the ground, SSA Martinez grabbed the front of his shirt collar and part of his neck with one hand, and pushed him back by his collar and neck toward the exit of the stationhouse. § 87(2)(b) claimed to have sustained minor neck pain as a result, but did not obtain medical attention. SSA Martinez then pushed § 87(2)(b)'s chest with both hands, pushing him almost through the exit door. § 87(2)(b) stumbled but did not fall. § 87(2)(b) asked SSA Martinez, “What the fuck are you doing?” but did not resist. In his unsworn phone statement, § 87(2)(b) noted being pushed on his chest, but did not mention SSA Martinez having pushed him by his neck. § 87(2)(b) did not claim that SSA Martinez had told him to leave the stationhouse.

§ 87(2)(b) stated that after SSA Martinez told § 87(2)(b) “Get the fuck out of my precinct,” § 87(2)(b) asked SSA Martinez where it was stated that he could not be on the phone. § 87(2)(b) alleged that SSA Martinez then grabbed § 87(2)(b) and pushed him toward the exit. She could not recall where exactly on his body § 87(2)(b) was grabbed or pushed, but believed it was near his shoulders. § 87(2)(b) did not push or fight back, but struggled to stay on his feet while stumbling. § 87(2)(b) initially referred to § 87(2)(b) as her brother, and then as her cousin. § 87(2)(b) clarified that § 87(2)(b) is a family friend who he considers to be a cousin.

SPA Holliday stated that after telling § 87(2)(b) to get out of the stationhouse, SSA Martinez grabbed the top part of his body, likely his shoulder or back, and pushed him toward the exit of the stationhouse. SPA Holliday did not see SSA Martinez grab his collar or neck, and did not see him push § 87(2)(b)'s chest. § 87(2)(b) compliantly walked with SSA Martinez, however, once they reached a certain point in the lobby, SPA Holliday was no longer able to see them.

SSA Martinez explained that after § 87(2)(b) repeatedly took his phone out, SSA Martinez told him he had to leave and wait outside for § 87(2)(b). § 87(2)(b) stated, “No, I’m not leaving,” and he and SSA Martinez went back and forth for a few minutes, during which time SSA Martinez was repeatedly trying to convince him to leave. When § 87(2)(b) still refused, SSA Martinez placed his hand on § 87(2)(b)'s shoulder and attempted to walk him out of the stationhouse. As SSA Martinez and § 87(2)(b) reached the first set of

doors, § 87(2)(b) swung the arm of the shoulder SSA Martinez's was holding, back toward SSA Martinez as if to shake SSA Martinez's hand off of him, and stated, "I'm not fucking leaving." § 87(2)(b) faced SSA Martinez and clenched his fist. SSA Martinez found this threatening and thought that perhaps § 87(2)(b) was going to attempt to punch him. SSA Martinez again told § 87(2)(b) that he had to wait outside and could not come back in. § 87(2)(b) then left. SSA Martinez denied grabbing § 87(2)(b)'s collar or neck, and denied pushing his chest or his body in any way. SSA Martinez's memo book is consistent with his testimony, stating that § 87(2)(b) refused to stop filming and taking photos, and when subsequently asked to leave, he responded that he was not going to leave (Board Review 08). The memo book notes that SSA Martinez then escorted him out, at which point § 87(2)(b) became violent and verbally abusive, was screaming, and made a fist as if to strike SSA Martinez.

PO Thompsonwebley stated that after § 87(2)(b) refused to put his phone away, SSA Martinez told him two to three times that he had to leave. PO Thompsonwebley stated that § 87(2)(b) refused, raised his voice, and stated that he was not leaving. SSA Martinez then tried to physically escort § 87(2)(b) out of the stationhouse. PO Thompsonwebley could not recall what part of § 87(2)(b)'s body SSA Martinez touched, but did not recall SSA Martinez using physical force to escort him out. She did not see SSA Martinez grab his neck or collar, and did not recall seeing him push § 87(2)(b)'s chest. § 87(2)(b) did not compliantly walk out with SSA Martinez, but eventually left on his own upon the release of § 87(2)(b).

After hearing SSA Martinez and § 87(2)(b) argue, Sgt Deschamps saw SSA Martinez place his hand on § 87(2)(b)'s shoulder and guide him toward the exit. He was unable to see the exit door clearly, however, and therefore did not see what, if anything, transpired near the door. He did not see the alleged force. PO Barrett did not witness any physical contact between SSA Martinez and § 87(2)(b) but heard SSA Martinez either tell § 87(2)(b) to stop filming, or tell him to leave three to four times. No other officers witnessed SSA Martinez and § 87(2)(b)'s interaction in the stationhouse.

§ 87(2)(g)

§ 87(2)(g)

Allegation G: Abuse of Authority – SSA Robert Martinez threatened to arrest § 87(2)(b) at the 75th Precinct Stationhouse.

§ 87(2)(b) alleged that after being pushed, he asked SSA Martinez, “What the fuck are you doing?” He was angry and shaking, and believed that § 87(2)(b) could see his anger, as she told him to calm down and “not to get into any more trouble.” § 87(2)(b) did not resist or fight back. SSA Martinez then tried to grab § 87(2)(b) s arm, and either stated, “I’m going to arrest you,” or, “You’re under arrest.” § 87(2)(b) moved his arm, shaking SSA Martinez off of him, and left the stationhouse.

§ 87(2)(b) stated that while SSA Martinez and § 87(2)(b) were still interacting, she saw § 87(2)(b) and ran over to him. When she turned around, § 87(2)(b) was no longer in the stationhouse. § 87(2)(b) made no mention of hearing SSA Martinez threaten to arrest § 87(2)(b).

SSA Martinez stated that § 87(2)(b) could have been arrested for disorderly conduct as he repeatedly refused to leave and screamed, “I’m not fucking leaving,” and as he was overall combative in his demeanor, tone, and body stance. SSA Martinez however, denied telling § 87(2)(b) that he was going to arrest him or that he was under arrest, and denied attempting to arrest him at any point.

NY Penal Law 240.20 subsections 1, 2, 3, 4, and 6 state that “a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm,” he or she engages in threatening behavior, makes unreasonable noise, uses obscene language in a public place, disturbs any lawful assembly or meeting of persons, or creates a hazardous or physically offensive condition by any act which serves no legitimate purpose (Board Review 27).

§ 87(2)(g)

Squad: ____

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date